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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yolo)

THE PEOPLE,

Plaintiff and Respondent,

v.

OSCAR ALEXANDER BARRIENTOS,

Defendant and Appellant.

C069574

(Super. Ct. No. CRF091248)

Appointed counsel for defendant Oscar Alexander Barrientos asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). Finding no arguable error, we affirm the judgment.

In October 2008, Maria Cerna, her boyfriend, Hugo Enrique Garcia (Hugo), and her children lived in West Sacramento. Cerna and Hugo worked during the day, and the children were in school.

On October 23, 2008, as Cerna was leaving for work, an unfamiliar teenage girl knocked on the door and asked for Cerna's daughter. After Cerna said her daughter was not home, the girl walked to a car, which Cerna had seen before parked nearby, and got

into the driver's seat; a young, slender Hispanic male (later identified by Cerna as defendant) was in the passenger seat.

As Cerna left for work, leaving the house empty, she forgot to close the bathroom window. Looking back, she saw that the car with the two young people inside was still parked near her house.

Hugo later called Cerna at work to tell her someone had burgled their home. The screens had been removed from the bathroom and bedroom windows, and both windows were open. A small plastic chair was under the bathroom window. The missing items, which included a television, car speakers, stereo and amplifier, DVD player, and jewelry, were worth over \$950. None was recovered.

While translating Cerna's statement to the police, her daughter recognized Cerna's description of the teenage girl as her friend's 17-year-old sister Alena.

Analysis of latent prints on the home's open windows turned up a match to defendant's prints.

Interviewed by the police, defendant denied involvement in the burglary and claimed he had never been in West Sacramento. He admitted, however, that his girlfriend was Antoinette Advincula, Alena's sister. The sisters lived in West Sacramento on the same block as Cerna; while investigating an unrelated incident involving Alena, the police found defendant at the sisters' home.

Defendant was charged by information with residential burglary and grand theft. (Pen. Code, §§ 459, 484, subd. (a)/487, subd. (a).)¹ A jury convicted him on both counts.

The trial court granted defendant formal probation for four years with 180 days in county jail and awarded him three actual days of presentence credit. The court imposed a \$400 restitution fine (§ 1202.4, subd. (b)) and a suspended \$400 restitution fine (§ 1202.44), a \$60 court facilities fee (Gov. Code, § 70373, subd. (a)(1)), and a \$60 court

¹ Undesignated statutory references are to the Penal Code.

security fee (§ 1465.8). The court also ordered defendant to pay \$4,696 in restitution to Cerna.

Appointed counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

HOCH, J.

We concur:

HULL, Acting P. J.

MAURO, J.